IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SIXTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO: 11133 of 1996

Between:

M.Hemachandra Rao S/o.Surya Prakash Rao
Ibrahimpatnam, Krishna District.

.... PETITIONER

AND

1 A.P.S.E.B., represented by its Member Secretary
Vidyuth Soudha, Hyderabad
2 Chief Engineer, Operation & Maintenance
A.P.S.E.B, V.T.P.S., Ibrahimpatnam

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of certiorari and quash the memo No.CEE/O&M/VTPS/Adm-JAO/1109/96, Dt.24/05/96 of the 2nd respondent and declare that the petitioner is entitled to fixation of seniority in the category of LDC as per B.P.Ms.No.1128, Dt.24/10/1989 in VTPS from the date of his appointment as LDC i.e., 18/07/1969 and for appropriate placement in the seniority list of L.D.C. of VTPS and direct the respondents to allow all the consequential services benefit to the petitioner and grant such other order as the Court deems fit and proper in the circumstances of the

case.

Counsel for the Petitioner: MR.V.VENKATARAMANA

Counsel for the Respondents: MR.S.RAVINDRANATH (Not present)

The Court made the following:

O R D E R: -

Petitioner joined service as Lower Division Clerk (`LDC') in the Lower Sileru Hydro Electric Project, (for short "LSHEP") on 18.07.1969. He was transferred to the V.T.P.S, Ibrahimpatnam, pursuant to a memo-dated 17.5.1977 and joined thereat on 23.5.1977. The petitioner and some others while working at the V.T.P.S were transferred to the Operation Circle, Kadapa, pursuant to a memo-dated 23.6.1981. Assailing the transfer, they filed W.P.No.4498/1981. An interim order was granted on 30.6.1981 to the effect that the petitioners' seniority should not be disturbed and if any promotional posts in V.T.P.S are to be filled up, they should be considered therefor, on a preferential basis. The writ petition, however, was dismissed on 19.01.1987. Petitioner was thereafter transferred to Operations Circle, Vijayawada by a memo-dated 13.07.1981. He worked there till the bifurcation of the circle, on which event; he was allotted to the Operations Circle, Guntur. He was in the Guntur operations circle till 31.03.1994. By a memo-dated 17.3.1994, he was again posted to the V.T.P.S where he joined on 4.4.1994. He is continuing in the V.T.P.S as on date.

2. In a seniority list of L.D.Cs issued for V.T.P.S employees, by a memo-dated 13.12.1989, the petitioner was not shown. His claim is that his junior one Poornachandra Rao who was also an L.D.C of LSHEP and who came with the petitioner to the V.T.P.S in 1977, was however shown in the seniority list. Aggrieved by this, the petitioner submitted representations for granting him seniority on par with Mr.Poornachandra Rao.

3. On the petitioner's representations, the respondent-Board issued a memo dated 13.9.1993 stating that the petitioner's seniority would be determined on the basis of the orders in W.P.4498/1981 and subject

to the result thereof. Seniority of the petitioner was also sought to be fixed in the Guntur Operations Circle to which the petitioner represented claiming that his seniority ought to be fixed in the V.T.P.S Circle. He contended that V.T.P.S is a separate unit for the purpose of seniority, transfers, promotions and other conditions of service.

4. On transfer to the V.T.P.S circle, pursuant to the memo dated 17.3.1994, the petitioner renewed his request for fixation of seniority with effect from the date he first entered the service of the Board in LSHEP, i.e., with effect from 18.07.1969. Thereupon, the respondent-Board issued a memo-dated 24.5.1996. This memo reads as under: -

> " In continuation of this office reference 3rd cited, it is to be informed that his seniority in the LDC cadre will be fixed from his date of joining in VTPS as LDC i.e., from 04.4.1994 Forenoon below the approved probationers of LDCs of VTPS existing on that date".

5. Aggrieved by the memo dated 24.05.1996 fixing his seniority in the category of LDCs with effect from 4.4.1994, the date on which he rejoined the post of L.D.C in the V.T.P.S pursuant to his posting vide Memo dated 17.3.1994, the present writ petition is filed.

6. No counter affidavit to the writ petition has been filed by the respondents. The petitioner's claim in para 4 of the writ petition that he was transferred from LSHEP to V.T.P.S by a memo-dated 17.5.1977, on administrative grounds, is not contested. It is also not denied that the petitioner was transferred from V.T.P.S either to Kadapa or to the Operations Circle, Vijayawada, Guntur and back to the V.T.P.S again in 1994, on administrative grounds. When an employee is transferred from one Unit to another Unit on administrative grounds and not at his volition, there is no reason why he should be deprived of his seniority in the category in which he was transferred, albeit from one unit to another. Neither the counter affidavit has been filed as already stated nor is there any

representation on behalf of the respondents stating the grounds on which the petitioner's seniority with effect from the date of his initial appointment in LSHEP, i.e., from 18.7.1969 is ignored while treating him as an LDC in the V.T.P.S only with effect from 4.4.1994, by the impugned memo dated 24.5.1996.

7. The impugned memo of the second respondent bearing No.CEE/O&M/VTPS/Adm-JAO/1109/96, dated 24.05.1996 therefore does not commend itself as being valid. It is accordingly set aside. The writ petition is disposed of declaring that the petitioner shall be entitled to count his entire service from the date of his entry in the category of L.D.Cs, i.e., 18.07.1969 for the purpose of seniority in the said category. The seniority list of LDCs, if any, prepared by VTPS, where the petitioner is presently working, shall be reviewed and corrected treating him as LDC with effect from 18.07.1969. The petitioner would be entitled to all the benefits of seniority and promotions, from the date of his entry in the category of L.D.Cs, i.e., 18.07.1969.

8. The writ petition is disposed of accordingly. No order as to costs.

Sd/-

ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To

1 Member Secretary, A.P.S.E.B.,Vidyuth Soudha, Hyderabad
2 Chief Engineer, Operation & Maintenance
A.P.S.E.B, V.T.P.S., Ibrahimpatnam

3 2 CD copies

RAR/PVSN